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|--|-------------|-----------------------------|---------------------|------------------|
| 10/587,185 | 07/25/2006 | Kiyoshi Hirakawa | 062835 | 7277 |
| 38834 7590 02/01/2010 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036 | | | | |
| EXAMINER MOYER, DALE S | | | | |
| ART UNIT 3664 | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

Office Action Summary

Application No.

10/587,185

Applicant(s)

HIRAKAWA ET AL.

Examiner

Dale Moyer

Art Unit

3664

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/CD)
Paper No(s)/Mail Date 1/22/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of the Application

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. The applicants' submission, hereinafter "the amendment", filed on 16 November 2009 has been entered.

Claims 1-3 are have been presented in the application, of which, claims 1-2 are currently amended and claim 3 is original. Accordingly, pending claims 1-3 are addressed herein.

Response to Arguments

1. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 2, the phrase "said motor is driven when the power is not supplied to the brake releasing unit that releases the brake when the motor is not

driven" renders the claim indefinite since it is not clear when the motor is driven. As best understood by the examiner the indented meaning of the phrase is "said motor is driven when [...] power is not supplied to the brake releasing unit [...]."

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimogama et al. (United States Patent No. 6,294,887).

In regards to claim 1, Shimogama et al. teach a conventional motor brake device for controlling the drive of a motor, the conventional motor brake device comprising: a brake releasing unit (Fig. 6) that releases the brake when power is supplied to coils (Fig. 6, element 4); said brake releasing unit connected to said brake through a release selection contact (Fig. 6, element 6a) and a release contact (Fig. 6, element 3a), and a brake release indication unit (Fig. 6, element 5) that is provided on the automatic machine or in the vicinity of the automatic machine the brake release indication unit indicates that the brake is ready to be released by the brake releasing unit ({ "for visually presenting a release of the motor brake to the operator" }), wherein the brake release indication unit serves as a driving power indication unit that selects an indication state when the motor is driven and selects an indication state other than said

indication state when the motor is not driven (column 1, lines 1-56; column 3, lines 45-46; see also the certificate of correction).

The examiner further notes that Shimogama et al. also teach that the brake release indication unit has two states. In a first state, the brake release indication unit is "lighted-on" and in a second state, the brake release indication unit is not "lighted-on". Further, Shimogama et al. teach that "[a]fter seeing the lighting-on of the [brake release indication unit], [an] operator knows that the motor brake is released and the motor is in a driving state." Since the brake release indication unit has two states and since the operator knows that the motor is in a driving state when the indicator section is lighted-on, it is inherent that the motor is not in a driving state when the brake release indication unit is not lighted-on.

Shimogama et al. do not explicitly teach that the brake releasing unit of the conventional motor brake device is released when the motor is not driven, and that the motor is not driven when the brake releasing unit is supplied with power so that the brake is released.

It would have been obvious to a person having ordinary skill in the art at the time of invention not to drive the motor while the brake is engaged. That is, it would have been obvious to the person to configure the apparatus taught by Shimogama et al. to release the brakes (i.e. supply power to the brake) when the motor is driven for the purpose of reducing mechanical wear of the conventional motor brake device.

Additionally, the examiner notes that apparatus claims must be structurally distinguishable from the prior art. The recitation that the brake releasing unit "releases

the brake when the motor is not driven" and the recitation that "[the] motor is not driven when the brake releasing unit is supplied with power so that the brake is released" do not further limit the claim in terms of structure. Therefore the recitations to not patentably distinguish the applicants' invention over what was well known in the art at the time of applicants' invention. See MPEP 2114.

In regards to claim 2, Shimogama et al. teach the conventional motor brake device as applied to claim 1 above, wherein the driving power indication unit serves as the brake release indication unit when the motor is not driven by selecting an indication state other than the indication state when the motor is driven.

Shimogama et al. do not teach that the motor is driven when the power is not supplied not the brake releasing unit that releases the motor is not driven.

The examiner notes that the recitation of "said motor driven when the power is not supplied to the brake releasing unit that releases the motor is not driven" does not further limit the claim in terms of its structure. Thus, the recitation does not distinguish the applicants' invention over that of the prior art. See MPEP 2114.

In regards to claim 3, Shimogama et al. teach the conventional motor brake device as applied to claim 1 above, wherein the automatic machine is a robot and the automatic machine control device is a robot control device (column 3, lines 65-67).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dale Moyer whose telephone number is (571)270-7821. The examiner can normally be reached on Monday through Thursday from 10AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi H. Tran can be reached on (571)272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dale Moyer/
Examiner, Art Unit 3664
/KHOI TRAN/
Supervisory Patent Examiner, Art Unit 3664